IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 31858 of 2007(P)

PETITIONER:

K.VIJAYAN, AGED 38 YEARS,
S/O KARUNAKARAN, KALATHILNADA HOUSE,
UPPUTHARA P.O., IDUKKI DISTRICT.
(EARLIER WORKED AS APP, GRADE-II,
JUDICIAL FIRST CLASS MAGISTRATE-II, PEERMEDU).

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR
SRI.P.P.BIJU

RESPONDENT:

THE DISTRICT COLLECTOR,
IDUKKI.

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J

W.P.(C). 31858/2007

Dated this the 5th day of November, 2007

JUDGMENT

Petitioner is a practising lawyer before the J.F.C.M-II, Peerumedu. He is included in the select list for the post of Assistant Public Prosecutor, Grade-II and is awaiting his turn for appointment. Pending joining of regular hands, the petitioner was earlier appointed as APP on a provisional basis as per Ext.P1 order, the term of which expired on 25.12.2006. Regular hands were still not available to take charge in the post. Petitioner approached this Court and as per Ext.P2, a direction was issued permitting the petitioner to continue to work as APP until the regular hand joins duty. Apparently thereafter, regular hand reported. Therefore, petitioner's service was dispensed with. But as the regular hand was deputed for training, petitioner made a claim that he be considered for appointment on a provisional basis. This Court in Ext.P4 judgment directed the District Collector to consider the petitioner's request. District Collector proceeded to pass Ext.P5 order. It is noted in Ext.P5 that

the Government had appointed one Sanjay Jacob as APP of J.F.C.M-II, Peerumade and the said person had joined duty on 5.9.2007. Citing this aspect petitioner's request for appointment as APP was declined. Ext.P5 has been challenged in this writ petition.

2. Learned Government Pleader, on instructions, submits that appointing authority has taken a decision not to appoint any other person on provisional basis, during the currency of the training of the incumbent. Instead the Collector had given additional charge to the APP in J.F.C.M-I. Apparently this is considered as sufficient by the competent authority.

3. Mr.T.A.Unnikrishnan, learned counsel for the petitioner submits that by Ext.P4 judgment, this Court had directed the District Collector to take a decision bearing in mind the necessity to make available the service of APP in J.F.C.M Court and Ext.P5, according to him, does not reflect any such consideration.

4. I am unable to agree that the District Collector has not taken a decision pursuant to the directions of this Court. He has referred to the fact that a regular incumbent had joined duty on 5.9.2007 and, therefore, there is no vacancy at present. As noted above, District Collector has decided to give the APP in J.F.C.M-I, additional charge in J.F.C.M-II. There is nothing wrong in the competent authority taking such a decision. No interference is required to give further directions to the first respondent, the District Collector. This writ petition fails and the same is dismissed.

V.GIRI
Judge

mrcs